



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 12, 1994

Mr. Lawrence J. Friedman
Friedman & Associates
570 Preston Commons West
8117 Preston Road
Dallas, Texas 75225

OR94-648

Dear Mr. Friedman:

On behalf of the City of Coppel, you ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 28004.

The City of Coppel has received seven open records requests from Mr. Arthur H. Kwast. The first request was for three categories of information. You have indicated that the city does not possess any records that fall within the first two categories.¹ The third category of information requested is "[a]ll invoices to date for Friedman and Associates for investigating the dismissal of Citation No. 13385." The second request was for "[a]ll checks paid to Friedman and Associates for investigating the dismissal of Citation No. 13385 from May 1, 1994 through July 18, 1994." You claim that the invoices and checks are excepted from disclosure by sections 552.101 and 552.107 of the Government Code as attorney work product and information protected by the attorney-client privilege. The remainder of the requests seek the authority relied on by various city employees, including a municipal court judge, in reinstating a parking citation that had been dismissed previously. You contend that these requests seek legal authority the requestor can research himself, not documents maintained by the city, and thus, that the city is not obligated to respond the these requests.

¹A governmental body has no obligation to compile or prepare new information in response to an open records request. Open Records Decision No. 605 (1992). Therefore, we will not address the first two categories of information in this ruling.

The city received the first request for information on June 30, 1994, and the second request for information on July 18, 1994. However, you did not request a ruling from this office regarding either request for information until August 1, 1994. Consequently, you failed to request a decision regarding either request for information within the 10 days required by section 552.301(a) of the Government Code.

Sections 552.301 and 552.302 of the Government Code require a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ); *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. *See id.*

You have not shown compelling reasons why the information sought in either the first or second request should not be released.² The fact that the information might fall within the attorney-client privilege and, thus, might be excepted from disclosure under section 552.107(1) of the Government Code if you had made a timely request for a ruling does not alone constitute a compelling reason to withhold the information. Open Records Decision No. 630 (1994). Therefore, the information sought in the first two requests is presumed to be public and must be released.

With regards to the remainder of the requests, we agree that the Open Records Act does not require the city to answer factual questions or to perform legal research. Open Records Decision Nos. 563 at 8; 555 at 1 (1990). However, the Open Records Act does require a governmental body to make a good faith effort to relate a request to information that it holds. Open Records Decision No. 561 (1990) at 8. For example, when a governmental body is faced with a broad request for information rather than for specific records, it should advise the requestor of the types of records available. *Id.* at 8-9. Therefore, you must make a good faith effort to determine whether the city has any records that contain any of the information requested in the remainder of the requests and must advise the requestor of the types of records, if any, that contain the requested information.³

²You cite no law that would make the information sought in the first and second requests confidential, and we are not aware of any such law. Information protected by the attorney-client privilege is protected under section 552.107, not made confidential under section 552.101. *See* Open Records Decision Nos. 630 (1994), 575 (1990).

³We note, however, that the records of the judiciary are not subject to the Open Records Act. *See* Gov't Code § 552.003(b).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Margaret A. Roll".

Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/KHG/rho

Ref.: ID# 28004

cc: Mr. Arthur H. Kwast
P.O. Box 478
Coppell, Texas 75019